

INTERNAL REVENUE SERVICE
District Director

Department of the Treasury

Attn: [REDACTED]

Date:

SEP 0 1995

Person to Contact:

Telephone Number:

Employer Identification Number:

Case Number:

Dear Applicant:

This is in reference to your application for exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code.

In a previous contact made with your organization, you were informed that it was our opinion that you did qualify for exemption from Federal income tax as an organization described in section 501(c)(6) of the Code. We have previously informed you of your rights of appeal in this matter, and, if you were in agreement with our conclusions, we requested that you execute an agreement Form 6018.

You have indicated your agreement to our conclusion that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(6) of the Code by executing and returning the Consent to Proposed Adverse Action Form 6018.

Accordingly, you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(6) of the Code.

Very truly yours,

District Director

Internal Revenue Service

Date: July 5, 1995

Attn: [REDACTED]

Case Number: [REDACTED]

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

(messages)

Response due date:
July 28, 1995

Dear Applicant,

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code.

THE FACTS:

The information submitted discloses that you were incorporated under the provisions of [REDACTED] Nonprofit Corporation Act ([REDACTED]) on [REDACTED].

Your Articles of Incorporation state that the corporation is organized for the purpose of, "establishing an association of selected [REDACTED] pet food and pet products retailers. The corporation will disseminate information, establish member programs and provide other services directed toward assisting its members in consistently providing their customers with the highest quality pet foods and pet products."

Your principal source of support is dues and assessments of members, per your financial data submitted with your application 1024.

Per your application 1024, your activities will be:
disseminate information
establish member purchasing

██████████
establish brand name purchasing programs
establish private and control label products

Per ██████████ APPLICATION FOR MEMBERSHIP, ITEM NO. 6,

"Applicant understands that regular membership may be eligible to purchase certain specified brands of pet food and pet products from ██████████ for resale at retail and that ██████████ has agree not to sell such specified brands of pet food and pet products to any individual corporation or business entity which is not a regular or sustaining member of ██████████.

Item NO 7, of the same application for membership states, "Applicant understands that through its membership in ██████████, applicant may also become eligible for rebates on purchases of specified brands of pet food and pet products with such rebates based upon; among other things, quantities of specified brands of products purchased by all Regular members of ██████████. Applicant understands that rebates will be determined based upon a formula determined by ██████████ which formula may be changed from time to time, and that rebates to individual Regular Members will be determined and distributed by ██████████.

Your Board appears to be made of almost exclusively of people who represent ██████████.

THE LAW

501(c)(6) Organizations

In order to comply with the requirements of the Code and regulations, an organization must meet the following basic tests:

- (1) It must be an association of persons having some common business interest, and its purpose must be to promote this common business interest:
- (2) it must not be organized for profit:
- (3) no part of the net earnings may inure to the benefit of any private shareholder or individual:
- (4) its activities must be directed to the improvement of business

conditions of one or more lines of business as distinguished from the performance of particular services for individual persons, and

- (5) its purpose must not be to engage in a regular business of a kind ordinarily carried on for profit, even if the business is operated on a cooperative basis or produces only sufficient income to be self-sustaining.

An IRC 501(c)(6) organization must be primarily engaged in activities constituting the basis for its exemption.

An IRC 501(c)(6) organization's primary activity cannot be performing particular services for members.

"The words "private shareholders or individuals" in section 501 refer to persons having a personal and private interest in the activities of the organization."

When a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest.

Regulations 1.501(c)(3)-1(d)(1)(i) states, "An organization is not organized and operated exclusively for one or more of the purposes specified in the subdivision (1) of this paragraph unless it serves a public rather than a private interest. Thus to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized for the benefit of a private interest such as designated individuals, the creator or his family, shareholders of the organization or persons controlled directly or indirectly, by such private interests."

CONCLUSION:

The information presented in your application shows that your organization is DOES do special services for individual members (the purchase of pet food and products on a cooperative basis and with rebates for purchasing from [REDACTED]) and that inurement, and private benefit, in present (to [REDACTED] and its personnel/executives)

[REDACTED]

Your organization is running a cooperative business of selling pet products and pet foods to its members on a cooperative basis.

Your organization is not exempt merely because its operations may not be conducted for the purpose of producing profit.

Therefore, based on the information submitted, we have concluded that your organization is not entitled to exemption from Federal income tax as an organization described in Code section 501(c)(6).

Accordingly, you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(6) of the Code.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018. Please note the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, please supply a written statement of your position, citing the reasons for that position and back up for that position with cites from the tax Code and Regulations, and any Revenue Rulings which are pertinent to the issues in your case.

Thank you for your cooperation.

Very truly yours,

Exempt Organizations Specialist

ENC: Form 6018 (2)
Pub 892